

PTO/SB/26(10-00)

Approved for use through 10/31/2002. OMB 0651-0031

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**Docket Number (Optional)
10512/41

In re Application of: EVERTS, et al.
 Application No. 10/666,924
 Filed: 09/19/2003
 For: OPERATOR CARRIED POWER TOOL HAVING A FOUR-CYCLE
ENGINE AND AN ENGINE LUBRICATION METHOD

The owner*, MTD Southwest, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent Nos. 5,622,688; 5,950,590; 5,738,063; and 5,241,932. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is rescinded, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.


Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

September 23, 2004
Date


Signature
Robert S. Mallin, Reg. No. 35,596
Typed or Printed Name

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form.
Provide credit card information and authorization on PTO-2038.**

- * Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Alexandria, VA 22313. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313